IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.501 OF 2006

Vijay Sakharam Chavan ...Appellant
Vs.
Sanjay Sakharam Chavan ...Respondent

Mr A.V. Chatuphale for the Appellant.

CORAM : A. S. OKA, J.
DATE : MAY 03, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Appellant. The Appellant is the original Defendant No.1 in a suit for possession filed by the Respondent Nos.1A to 1F. The case of the Appellant is that deceased Chandrabhaga executed a Will on 01st March, 1994 by which a bequest was made in his favour in respect of the suit property. The original Plaintiffs are the legal representatives of deceased Chandrabhaga. The Trial Court decreed the suit by holding that the Will is not proved in accordance with law as there were suspicious circumstances. The Appellate Court has confirmed the said finding. The learned Advocate appearing for the Appellant submitted that execution of the Will was duly proved. He pointed out that infact the Will was duly registered in the office of the Sub-registrar. He submitted that findings in this behalf recorded by the courts below are perverse.

2. I have considered the submissions. A finding of the fact has been recorded by the Appellate Court that the Will was executed in English language and the witness Gopal who was examined by the Appellant to prove the Will did not state that contents of the Will were explained to deceased Chandrabhaga in Marathi language. The Appellate Court has noted that according to the case made out by the witness Gopal, thumb impression of Shevanti who was daughter of Chandrabhaga was obtained at 03.15 p.m. on 03rd March, 1994 when the record shows that document was presented for registration between 10.00 to 11.00 a.m. on that day. The Appellate Court has also noted that the original Plaintiffs are the natural legal heirs of the deceased Chandrabhaga. The Trial Court has noted the fact that even the scribe of the Will is not examined. In view of these circumstances, finding of fact is recorded by the courts below that the execution of Will is not proved. In view of this position, no fault can be found with the findings of the courts below. Second Appeal is dismissed. No orders as to costs.

JUDGE